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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in the former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly, the members of the Security Council and to the Organization for Security and Cooperation in Europe, the periodic report prepared by Ms. Elisabeth Rehn, Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia, in accordance with paragraph 45 of Commission on Human Rights resolution 1996/71 of 23 April 1996 and paragraph (b) of Economic and Social Council decision 1996/276 of 23 July 1996.

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ANNEX

Periodic report on the situation of human rights in the territory of the former Yugoslavia submitted by Ms. Elisabeth Rehn, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 45 of Commission resolution 1996/71

Special report on minorities*

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Introduction

1. The causes of the conflict which has tormented the former Yugoslavia for the past five years are complex. Personal ambition, competition for resources, historical grievances, propaganda - all of these have been factors provoking fighting during which the most shocking human rights violations in Europe in nearly 50 years took place. But one cause of the many-sided war is absolutely clear: the failure of the former Yugoslavia's political leadership to meet the challenge of governing populations which do not share the nationality, ethnicity, religion or language of their region's dominant national group. These smaller populations, referred to in this report as "minorities", have persistently voiced resentment, fear and anger over the policies of the region's Governments which have not, in their view, respected the right of all people to express and sustain their group identities. Minorities' aspirations, and Governments' reactions to them, have led to much of the violence and many of the human rights violations which have taken place in recent years in the territory of the former Yugoslavia.

2. In response to charges that they are seeking to secure dominance by one ethnic group over others, or even to attain ethnically "pure" States, the region's Governments point to a range of legal measures they say have been taken to ensure minority rights. Such measures include constitutional and other domestic legislation, as well as accession to various international instruments. These steps have not, however, significantly calmed inflamed feelings or eased the ever-present threat of conflict. Governments continue to be accused of marginalizing or repressing minority populations, and even of attempting to drive them from their States' territories altogether. At the very least, one must conclude that the participation of minority peoples in public affairs throughout the region is limited, as is their access to many of the benefits of citizenship. In some instances the law fails to provide adequate opportunities for minorities to fully exercise their rights, while in others the law is unenforced, misapplied or ignored. Both of these situations have led to a continuing high state of tension.

3. The Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia has paid particular attention to the question of minorities since assuming her post in September 1995. During the past year she has made numerous visits to regions, municipalities, and even neighbourhoods where the predominant local population is of a different national or ethnic group from that which controls, either de jure or de facto, the surrounding territory. The pain and uncertainty suffered by the people she has met in these places are unmistakable. If security is one of the cornerstones upon which human rights are built, then in many parts of the former Yugoslavia minorities lack even a foundation on which to build their lives.

4. The Special Rapporteur considers that progress in the protection of minorities is now one of the most urgent human rights needs in the territory covered by her mandate, and it is for this reason that she submits the present report. The report is not an exhaustive examination of the situation of minorities throughout the territory of the Special Rapporteur's mandate.

Indeed, it may be observed that in one of the countries, Bosnia and Herzegovina, the term "minority" is acutely unsatisfactory since no one national group constitutes a majority of the State's population. She has therefore decided to avoid a detailed analysis of all of the numerous and complicated situations in which one population finds itself somehow subordinate to a neighbouring larger group. Instead, the report concentrates on two countries dominated by people of one national group: the Federal Republic of Yugoslavia, which is populated mainly by Serbs, and the Republic of Croatia, which is predominantly Croat. The Special Rapporteur is of the view that the approaches taken to minority questions by the Federal Republic of Yugoslavia and Croatia are of pre-eminent importance not only for the security of these countries' own minority populations, but for the human rights of all people in the region, and for the maintenance of peace.

5. The report draws largely on the personal observations of the Special Rapporteur herself during her visits to the region. Since her appointment one year ago the Special Rapporteur has undertaken nine missions to the territory and, as noted above, has spent time in many areas with minority populations. Her impressions and the conclusions derived from these visits form the major part of the report. The report also considers important legislation which has either been enacted or which could be enacted to promote protection of the human rights of minorities, as well as political initiatives directed towards the same end. Significant recent events, including instances of serious human rights violations, are detailed in the report.

6. The report takes into consideration the international law on minority rights comprising all or parts of various instruments, including the International Covenant on Civil and Political Rights, 1/ the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the General Assembly in 1992. The Special Rapporteur further wishes to recall pertinent resolutions of the Commission on Human Rights and the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, as well as reports of the High Commissioner for National Minorities of the Organization for Security and Cooperation in Europe. The Special Rapporteur wishes especially to highlight the constructive work of the Sub-Commission's Working Group on Minorities, established in 1995, and has taken special note of the recommendations to the Sub-Commission on the question of minority protection submitted in 1993 by Sub-Commission member Mr. Asbjørn Eide.

7. The Special Rapporteur would like to emphasize her commitment to the principles, enshrined in the Charter of the United Nations, that all States are equal in sovereignty and that their territorial integrity shall be secure from the threat or use of force. In the interest of peace, the Special Rapporteur is convinced that internationally recognized boundaries, including those of the countries of the former Yugoslavia, must be respected. She believes that while members of minority populations possess inalienable rights, they also have solemn duties with respect to the States in which they

live. Nevertheless, it is clear that the Governments of the territory of the former Yugoslavia have the imperative responsibility to take new measures to promote the protection of minority rights, and indeed are well advised to do so, even if for no other reason than to ensure the lasting integrity of their States' borders.

8. The report first briefly considers the situation of national groups in the former Socialist Federal Republic of Yugoslavia, and then studies in depth the situations in the Federal Republic of Yugoslavia and the Republic of Croatia. Conclusions and recommendations are offered throughout the report, and general conclusions and recommendations are found in the report's final section.

9. The Special Rapporteur is indebted not only to the numerous interlocutors named throughout the report, but to academic authorities and studies, including materials published by the London-based Minority Rights Group. 2/

I. SITUATION OF MINORITIES IN THE FORMER SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA

10. To better understand the present situation of minority populations in the former Yugoslavia, it is useful to recall some aspects of the unique and complex approach to nationality taken by the predecessor State in the region, the Socialist Federal Republic of Yugoslavia (SFRY). The sovereign identity of the SFRY was based both on federalism and on a liberal dispensation of autonomy among republics and provinces which conformed with the geographical concentrations of different national groups. The SFRY was a federation of republics, each of which (with the exception of Bosnia and Herzegovina) was populated predominantly by people of a single national group. The republics were Serbia (populated predominantly by Serbs), Croatia (Croats), Macedonia (Macedonians), Montenegro (Montenegrins), Slovenia (Slovenes), and Bosnia and Herzegovina (dominated by no national group, but with a plurality of Muslims and large populations of Serbs and Croats). The Socialist Republic of Serbia, furthermore, included two "autonomous provinces", created partly owing to their large non-Serb populations. To the north was Vojvodina (an ethnically diverse region with, in 1991, a slim Serb majority, but with substantial Hungarian, Croat and other populations), and to the south was Kosovo (with a large majority of ethnic Albanians, although they were a minority in the context of the Socialist Republic of Serbia as a whole.

11. Article 1 of the SFRY Constitution described the State as "having the form of a state community of voluntarily united nations and their Socialist Republics, and of the Socialist Autonomous provinces of Vojvodina and Kosovo". The reference to "nations" (in the original Serbo-Croatian version, narodi) and the connection between "nations" and "their Socialist Republics" is of particular significance. Nations in the SFRY corresponded to peoples having "their own" republics, that is, republics defined by the narodi which formed the majorities of their populations (Serbs, Croats, Slovenians, Macedonians and Montenegrins). 3/ They were differentiated under the Constitution from "nationalities" (narodnosti) who were, broadly speaking, all other minorities, whose kinfolk in most cases formed the majority of and defined neighbouring

States (e.g., Hungarians, Albanians, Italians). Nations of the SFRY were considered to be "constituent nations", the foundation of the Federation, members of which held (or were believed to hold) certain advantages throughout its territory. Indeed, one of the Basic Principles of the Constitution of the SFRY emphasized the right of every nation of self-determination, including the right to secession. The nation-based republics had substantial authority over matters within their borders, although such authority could not be exercised in contravention of federal law. Each of the republics (as well as the provinces) had a presidency, a legislative assembly, a court system, and the power to confer republican citizenship. 4/

12. The exceptional status of nations in the SFRY may help to explain the reactions of some members of nations who, after the dissolution of the SFRY found themselves in a significantly changed situation. Serbs in Croatia, for example, who, under the Constitution of the Socialist Republic of Croatia, had been a "constituent nation" of the republic on the same level as Croats, found themselves grouped by the new Constitution of the Republic of Croatia, adopted in 1991, with other national groups as "other peoples and minorities". They reacted by attempting to exercise their national right of secession as guaranteed in the Constitution of the SFRY.

13. The term "national minorities" appeared only once in the SFRY Constitution, referring in essence only to members of "constituent nations" who found themselves minorities in neighbouring States. The SFRY made significant efforts to advance the rights of these people, and of minorities generally, through several international initiatives including the submission of a draft declaration on the rights of national, ethnic, linguistic and religious minorities and taking the position that the Helsinki Final Act of the Conference on Security and Cooperation in Europe should contain references to minorities. 5/

14. The peoples who were part of the populations of the "autonomous provinces" - Vojvodina and Kosovo - as well as other minority groups were considered "nationalities"; nations and nationalities were accorded equal rights by the Constitution of the SFRY. Nationalities had "the right to use their language and alphabet in the exercise of their rights and duties" (art. 171). Discrimination on the basis of nationality (as well as of race, sex, language, religion, education or social status) was prohibited. Advocating national inequality and incitement of national, racial or religious hatred and intolerance were unconstitutional and punishable. Freedom of religion for all citizens was guaranteed. The provinces themselves were proclaimed to be "constituent parts" of the Socialist Republic of Serbia and they exercised considerable influence at the federal level through their inclusion in high-level bodies, including the Federal Presidency.

15. Although it survived for more than 40 years, the SFRY ultimately disintegrated, starting with the proclamations of independence of the Republics of Croatia and Slovenia in 1991. These were followed by similar proclamations by the Republics of Bosnia and Herzegovina and Macedonia. The Federal Republic of Yugoslavia, comprising the remaining Republics of Serbia and Montenegro, acquired a different legal framework in 1992 with the adoption of a new Constitution. Two years before, the Socialist Republic of Serbia had

altered the status of its "constituent parts", the autonomous provinces of Vojvodina and Kosovo, by significantly reducing aspects of their autonomy. A new panorama thus presented itself in the territory of the former Yugoslavia at the beginning of the 1990s.

16. The General Framework Agreement for Peace in Bosnia and Herzegovina (the Dayton Agreement) and the Basic Agreement on the region of Eastern Slavonia, Baranja and Western Sirmium in Croatia, both concluded in late 1995, have now brought peace and an opportunity for a more considered look at the question of minority protection throughout the territory of the former Yugoslavia. The immediate outlook for the protection of minorities in the Federal Republic of Yugoslavia and the Republic of Croatia has been considerably brightened by the Agreement on the Normalization of Relations between these two countries, signed at Belgrade in August 1996. It is fervently hoped that the fate suffered by the SFRY can, and will be, avoided by the States now existing in the region.

II. SITUATION OF MINORITIES IN THE FEDERAL REPUBLIC OF YUGOSLAVIA

A. Background

17. Following a general discussion of the legal framework for minority protection of the Federal Republic of Yugoslavia (FRY), the present study will consider the situation of minorities in the country, focusing on the largest groups. The demographic situation of the FRY is described briefly below. The Special Rapporteur has taken into consideration information received from government authorities during her missions, as well as the "Report on the Status of National Minorities in the Federal Republic of Yugoslavia" submitted in May 1996 by the Federal Ministry of Justice. The Special Rapporteur is grateful to numerous local non-governmental organizations which have provided her with information and analysis including, in Belgrade, the Humanitarian Law Centre, the Belgrade Centre for Human Rights, the Helsinki Committee for Human Rights in Serbia and the Centre for Anti-War Action; in Podgorica, the Montenegrin Helsinki Committee for Human Rights; in Pristina, the Council for the Defence of Human Rights and Freedoms in Pristina; and in Novi Pazar, the Helsinki Committee for Human Rights in Sandzak.

18. The Federal Republic of Yugoslavia (FRY), composed of the Republics of Serbia and Montenegro, is a multi-ethnic society made up of a large number of different ethnic, national and linguistic groups which have lived together for centuries. Demographic data from the most recent census show that in 1991, about 67 per cent of the country's total population of 9.8 million were Serbs and Montenegrins, while the rest belonged to more than 30 different minority groups. (The second largest group was Albanians, constituting some 17 per cent of the population, 6/ followed by Hungarians comprising about 3.5 per cent). Population movements in and out of the country over the last five years have changed these proportions to some extent. Most notable among these movements have been the arrival of between 150,000 and 200,000 Croatian Serb refugees from Croatia in 1995, and the departure of thousands of non-Serbs since 1991 owing to tensions and violence connected to the conflicts in Bosnia and Herzegovina and Croatia.

19. In the Republic of Serbia the largest minority groups live mainly in three areas. The great majority of the roughly 1.5 million ethnic Albanians are concentrated in the province of Kosovo (called by the FRY Government Kosovo and Metohija), while others live nearby in other areas of southern Serbia. Most members of the Muslim minority of some 237,000 persons (according to the 1991 census) live in the area widely known as Sandzak (called by the Government the Raska district), stretching across south-eastern Serbia into northern Montenegro along the border with Bosnia and Herzegovina. The province of Vojvodina in the north of the Republic of Serbia is the most mixed region in the country, with 26 different ethnic, national or linguistic groups. In the Republic of Montenegro, meanwhile, there are small Albanian and Croat minority communities in addition to the Sandzak Muslims.

B. National and international legal standards

1. Constitutional provisions

20. The protection of minority rights in the Federal Republic of Yugoslavia has its basis in the 1992 Federal Constitution and the constitutions of the Republics of Serbia and Montenegro, promulgated in 1990 and 1992 respectively. Article 11 of the Federal Constitution is the core provision on this issue, guaranteeing to minorities their right to preserve, develop and express their ethnic, cultural and linguistic characteristics. This law is supplemented by a number of other measures in which more specific rights are defined.

21. While the official language is Serbian and the official alphabet Cyrillic, the languages of national minorities shall be in official use as regulated by statute (art. 15). The Constitution guarantees equality before the law without discrimination (art. 20), freedom of religion (art. 43), and the right of minorities to express and foster their culture and identity (art 45). Under article 46 minorities have the right to education and information in their own language, while article 47 guarantees their right to establish cultural institutions and associations. Articles 48 and 49 respectively speak of the right of minorities to maintain contacts with their co-nationals abroad, and to use their languages in dealings with administrative bodies and courts of law. Articles 38, 42 and 50 prohibit incitement to ethnic, racial or religious hatred.

22. The 1990 Constitution of the Republic of Serbia addresses the issues of minorities largely along the same lines as the Federal Constitution, emphasizing non-discrimination as the basis for equality of all citizens regardless of their ethnic, religious or other affiliation. The 1992 Montenegrin Constitution includes a few additional provisions which would appear to require affirmative action by the Government to protect and promote minority rights. For example, in chapter 5 the Constitution obliges the Republic, inter alia, to materially support cultural, educational and religious activities of national minorities, and to ensure their equal representation in public services and in State and local government.

23. Of particular significance is the provision of the Constitution of the Republic of Serbia stipulating that the areas of Kosovo and Vojvodina have the status of "autonomous provinces", with certain local political structures and

areas of administrative competence prescribed by law. Some aspects of this autonomous status, as well as the consequences of the reduction in provincial authority imposed by the Republic between 1989 and 1991, are considered in detail below.

2. National legislation

24. While no single comprehensive law regulates the rights of minorities on the federal or republic level, the issue is addressed by individual laws on different subjects including education, freedom of association, the media, and the official use of languages. The laws of the FRY and its constituent republics make no provision for an ombudsman-type institution to address questions of minority rights or human rights generally.

25. Under the 1991 Law on the Official Use of Languages of Serbia, in areas inhabited by minorities their languages shall be in official use together with the Serbian language. Municipal assemblies are to specify by statute which minority languages shall be in official use in different regions. In the Republic of Montenegro, constitutional provisions on language are implemented directly, without being specified in a particular law or act. The Special Rapporteur has been informed that a comprehensive law on the use of minority languages is currently being prepared by the Federal Government.

26. Under the Republic of Serbia's Law on Primary Education, pupils belonging to minority groups are to receive instruction in their own language in schools where at least five minority students enrol for the first grade. Education in minority languages may be arranged for smaller groups of students with the approval of the Republic's Ministry of Education. The law for secondary schools is similar, providing that a minimum of 15 pupils is normally required for instruction in a minority language. In higher education, the language of instruction is Serbian but studies in minority languages may be arranged with official approval.

3. International obligations

27. The Federal Republic of Yugoslavia is a State party to the main international instruments relating to the protection of the rights and freedoms of minorities. These include the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. The FRY has engaged in dialogue and constructive cooperation with the treaty-monitoring bodies, although it does so only informally since the FRY's status before the United Nations needs further clarification. National legislation on minority rights largely conforms to the international standards set out in these instruments. However, as explained below, in some areas the implementation of these guarantees needs further strengthening.

4. Citizenship

28. It is important to recall the importance of citizenship legislation to the question of minority rights. Full enjoyment of a State's protection, and

for that matter the duty fully to honour one's civic responsibilities, begin with the acquisition of citizenship. The question of citizenship becomes exceptionally complicated when a State breaks apart, as happened with the Socialist Federal Republic of Yugoslavia. Minorities in successor States can face great difficulties in resolving their citizenship status.

29. The question of FRY citizenship was left essentially unregulated for several years in the absence of revised legislation corresponding to the country's new situation following the dissolution of the SFRY. However, on 16 July 1996 the Federal Assembly adopted a new law on citizenship, to come into force on 1 January 1997. Whether this law will have the positive effect of bringing more inhabitants of the FRY into the country's constitutional framework through the recognition of citizenship in appropriate cases remains to be seen. While the law's adoption is a step forward, concerns have been raised over some of its provisions, including the broad discretion in decisions to grant or deny citizenship which is vested in the federal and republican ministries of interior.

C. The situation in Kosovo

30. The presentation of the situation in Kosovo is based on information received by the Special Rapporteur and the field staff of the High Commissioner for Human Rights from both governmental and non-governmental sources. It is also based on the Special Rapporteur's impressions and conclusions formulated during the three missions she has undertaken to Kosovo since assuming her mandate in September 1995, the latest having taken place in October 1996.

31. The ethnic Albanian population of the province of Kosovo (called by the Government Kosovo and Metohija), located in the Republic of Serbia, makes up some 80-90 per cent of the province's population (most of the rest are Serbs), and some 15-20 per cent of the population of the FRY. While Kosovo's instability has a long and complicated history, the roots of the present problems may be found mainly in a series of events which occurred from 1989 to 1991.

32. As noted above, under the 1974 Constitution of the Socialist Federal Republic of Yugoslavia the autonomous province of Kosovo (like Vojvodina) enjoyed a high degree of political and territorial autonomy. The province had its own constitution, government, judiciary, parliament and presidency. The province's legislative competence extended to the areas of defence, internal security and even international relations. The province also had an independent educational system, supervised by a provincial Educational Council. In Kosovo a number of Albanian cultural institutions, such as the university and the Academy of Science and the Arts, sought to promote Albanian culture and traditions.

33. While constitutionally a part of Serbia, Kosovo as a province had the right to be directly represented in the Federal Parliament, the Presidency and other federal bodies, and was thereby in a position to veto decisions of importance for the federation. Indeed, the provinces of Kosovo and Vojvodina enjoyed in the SFRY a status close to that of the republics. However, in 1989

the Parliament of the Socialist Republic of Serbia, in a process of centralization of State administration and law-making, approved a series of constitutional changes which removed many of the attributes of autonomy from both Kosovo and Vojvodina. According to the Government, the reform was needed because Serbia was finding itself effectively paralysed by the provinces' wide-ranging independence. Most legislative and judicial functions of the provincial bodies were transferred to the Republic.

34. The changes were formalized with the adoption of Serbia's new Constitution in September 1990. Under its provisions the "autonomous provinces" retained some authority over the provincial budget, cultural matters, education, health care, use of languages and other matters, but the authority was thenceforth to be exercised only in accordance with decisions made by the Republic. In fact, the new Constitution gave the Republic the right directly to execute its decisions if the provinces failed to do so.

35. In reaction to these changes, a large number of Albanian public officials in Kosovo resigned their posts, while others were dismissed and replaced by people from other parts of Serbia. It has been alleged that in this way up to 100,000 persons were removed from posts in the State and provincial administrations, and in schools and public enterprises. Since most high-level public positions came to be filled by Serbs, the province's language for official business changed for practical purposes from Albanian to Serbian. The changes in Kosovo's status provoked widespread social unrest in the province, including large public demonstrations and other actions which were met with strong repressive measures by Yugoslav security forces. Numerous persons, mostly Albanians, were shot and killed during this time, many were hurt and numerous arrests, including arbitrary detentions, and incidents of torture were reported. A state of emergency was imposed in Kosovo by the Belgrade authorities.

36. In July 1990 the Republic of Serbia dissolved the government and parliament of the province of Kosovo, which led the provincial presidency to resign in protest. Shortly before the adoption of Serbia's new constitution in September 1990, a group of deputies from the former provincial parliament met in Kacanik and adopted a declaration on independence for Kosovo. One year later, in September 1991, Kosovo's Albanian leadership organized a referendum, illegal under the law of the Republic of Serbia, on independence, with more than 90 per cent of those voting indicating their support. Presidential and parliamentary elections for the so-called "Republic of Kosova" were held in May 1992, and the leader of the main Albanian political party, the Democratic League of Kosova (LDK), Dr. Ibrahim Rugova, was elected President. Since 1990, the majority of ethnic Albanians in Kosovo have boycotted all elections held for institutions of the Republic of Serbia and the FRY, thus virtually eliminating the Albanian minority's voice from the conduct of State affairs.

37. At present, two separate societies exist in Kosovo. Alongside the official bodies of the Republic of Serbia, a complete set of institutions maintained by the so-called "Republic of Kosova" manages most aspects of public administration and services, including a separate school system. During the last several years, the existence and activities of these

"parallel" institutions have frequently been used as a pretext by the FRY authorities for the systematic abuse of the human rights of ethnic Albanians. The continuing instability has had a harmful effect both on the local Albanian population and on the province's minority Serb population. While open conflict has so far been averted, the situation remains deadlocked with both sides maintaining sharply-opposing views on the province's status and future.

38. There has recently been one promising development. On 1 September 1996 the President of the Republic of Serbia, Mr. Slobodan Milosevic, and Dr. Rugova signed a Memorandum of Understanding concerning the educational system in Kosovo, following a dialogue which had been facilitated by the Italian non-governmental organization, the Community of St. Eudigio. In the agreement the two parties declare their commitment "to proceed to the normalization of the educational system of Kosovo for the Albanian children and youth". The document expressly states that "it foresees the return of the Albanian students and teachers back to schools". The agreement further states that it was reached because of the "concern which both [parties] feel very strongly for the future of the Albanian children and youth of Kosovo". While it remains to be seen whether the accord will be implemented, it is certainly a hopeful sign.

1. Law enforcement and security of the person

39. Reports have continued to be received into the past year of systematic human rights violations perpetrated by Serbian police and security services against ethnic Albanian residents of Kosovo. These abuses have included arbitrary arrests, torture, harassment and house searches involving mainly, though not exclusively, persons active in the LDK and in the running of parallel Albanian institutions. Serbian security forces have themselves also suffered violent attacks.

40. In the spring of 1996, the level of tension in Kosovo rose sharply following a series of killings and attacks at various locations in the province. The violence started on 21 April 1996 when a 20-year-old Albanian student was shot dead on a street in Pristina. The police arrested one person, of Serbian nationality, who was subsequently found guilty of murder. The next day four Serbs were killed when a group of armed men entered a restaurant in Decani and sprayed the room with automatic rifle fire. Almost at the same time, unidentified persons opened fire on a Serbian police patrol in Pec, wounding two policemen. A third attack took place the same day in Kosovska Mitrovica where a police vehicle was shot at. One female passenger was killed and the driver was wounded. Finally, in the village of Stimlje, a Serb police officer was killed in an ambush. These incidents reportedly resulted in widespread arrests, including arbitrary detentions, and alleged incidents of ill-treatment and torture of detainees in custody. During her visit to Pristina on 2 and 3 May 1996, the Special Rapporteur had the opportunity to speak with several Albanians who had witnessed or personally experienced ill-treatment and other arbitrary measures by local law enforcement authorities.

41. A great number of human rights abuses appear to have taken place in the summer and fall of 1996. The Special Rapporteur has been informed of, though

she has been unable to confirm, hundreds of cases of persons being summoned by Serbian authorities for so-called "informative talks", during which some suspects were subjected to physical mistreatment. The Ministry of Justice has stated, however, that incidents of abuse are isolated and that perpetrators are brought to justice. The Special Rapporteur has received no documentary evidence in support of this claim.

42. Hundreds of incidents of arbitrary and violent searches of homes for weapons have been reported in Kosovo in 1996. The Serbian authorities have on occasion sealed off entire areas, interrogated and sometimes physically assaulted ethnic Albanians at random, including in an incident reported to have occurred at the Pristina market on 24 July 1996. It is further alleged that some persons are imprisoned by the Serbian authorities solely on political grounds, including Mr. Ukshin Hoti, a lecturer at Pristina University and President of the Albanian National Unity Party who was sentenced to five years' imprisonment in 1994. The "disappearance" of three ethnic Albanians who were allegedly abducted, possibly with the knowledge of the local police, while they were working in fields near Srbica in September 1996 was reported by Amnesty International on 2 October 1996.

2. Education and culture

43. In connection with the centralization process described above, in 1990 and 1991 the Government of Serbia brought the field of education under the authority of the Ministry of Education in Belgrade and established a uniform curriculum to be used throughout the country. As part of this change a number of primary and secondary schools, for example in Pec, Podujevo, Oblic, Kosovo Polje and Kijevo, were reportedly closed in the 1990/91 school year. The provincial Educational Council of Kosovo was also dissolved. It is reported that more than 18,000 teachers and other staff in local schools and faculties were dismissed or resigned owing to their refusal to implement the new educational programme, which in their view was arbitrarily imposed and did not take into account the needs of the local Albanian population. Some Albanian cultural institutions were also disbanded, including the Academy of Science and the Arts. On 8 March 1994 the last Kosovo Albanian academic institution, the Institute for Albanian Studies, was closed by a decision of the District Administrator of Kosovo.

44. Despite the measures taken for new teaching programmes, Albanian-language schools continued to follow the curricula established by the disbanded Educational Council and a large number of so-called "parallel" schools opened in private houses during the 1990/91 school year. It is estimated today that up to 300,000 pupils are attending primary and secondary classes in the "parallel" school system. An additional 6,000 students are enrolled at the "parallel" university in Pristina. Since these institutions are not operated under government authority, diplomas and degrees issued by them are not officially recognized. Harassment by Serbian police of teachers and students on the premises of "parallel" schools has been reported on numerous occasions, including an incident alleged to have occurred on 20 June 1996 at Petrovo, near Stimlje, where police raided the teachers' room of an elementary school, checked identification papers and ordered several persons to report to the local police the next morning.

45. As noted above, an event of potentially major significance occurred on 1 September 1996 when President Milosevic and Dr. Rugova signed an agreement on the normalization of education in the province. Under this framework agreement all Albanian students are to return to official schools. The accord is to be put into practice by a commission consisting of representatives of both parties. While preparations for the establishment of this commission are under way, the Special Rapporteur is concerned that there has been little progress so far in the implementation of the agreement. In the interests of Kosovo's children, it is hoped that the discussions which will take place will result in the reintegration of the two educational systems, renewed confidence in the Serbian authorities' commitment to respect the rights of the Albanian minority in the field of education, and an end to harassment of and discrimination against Albanian educators.

3. Health and child care

46. The health-care situation has also been negatively affected by the tensions in Kosovo, and as noted in earlier reports of the Special Rapporteur, it is the children who suffer the most. The Special Rapporteur has paid particular attention to this problem during her missions to Kosovo, where she has visited several local health-care centres and clinics.

47. It appears that, owing to mistrust, Albanian parents are often reluctant to have their children examined and treated by doctors and other medical staff of Serb nationality. One concrete result of this is a low immunization rate of Albanian infants against polio and other epidemic diseases. The Special Rapporteur therefore welcomes the polio vaccination campaign carried out from 27 to 29 September 1996 by the World Health Organization, UNICEF and the Albanian humanitarian organization "Mother Theresa", under the auspices of the Serbian Ministry of Health. This campaign has reportedly been successful in achieving its aim of vaccinating some 300,000 children throughout Kosovo.

48. During her most recent visit to Pristina in October 1996, the Special Rapporteur visited the local Children's Hospital, where she was informed of the tragic fate of a large number of newborn babies who had been abandoned by their mothers, many of whom were young and unmarried, immediately after their birth. This appears to be a particular problem in Kosovo. The Special Rapporteur was deeply disturbed to learn that most of these children end up in orphanages where conditions reportedly are poor.

4. The media

49. As in the rest of Serbia, the population in Kosovo relies on TV and radio for news and information. Only State-controlled stations operate in the region. Although Albanian-language broadcasts are available, few people watch them since the programmes are widely regarded as State propaganda. Some Albanians who can afford it receive TV Albania by satellite. The main Albanian daily, Bujku, which is close to the LDK party, currently is published in some 10,000 copies daily. The paper is formally under the State publishing house Panorama, which also controls its distribution and printing. Panorama reportedly keeps printing costs for Bujku at double those of other publications.

50. The independent weekly news magazine Koha (circ. 7,000) acquired its own printing facilities this year, and is now trying to establish an independent distribution network. One case of direct State interference in the work of Koha has been reported. In April 1996, the magazine published a satirical photo-montage of President Milosevic of Serbia, as a result of which State security police allegedly entered the magazine's premises, stopped operations and ordered the paper henceforth to have its contents pre-approved by the police. However, the orders have reportedly not been enforced.

5. Conclusions and recommendations

51. A complex mix of factors has resulted in a continuing pattern of human rights abuses in the province of Kosovo, and to the region's overall instability. There is no purpose served by attempting to attribute sole responsibility either to the Serbian authorities or to local Albanians and their political leadership. It will be essential in the near term for both sides to commit themselves to reopening regular channels of communication and to accepting the need to compromise in the interests of easing tension.

52. The leadership both of the Federal Republic of Yugoslavia and of the Republic of Serbia will have to acknowledge the legitimacy of the goal of the Kosovo Albanian minority to realize meaningfully their national and ethnic identity, which is consistent with the FRY's international obligations and with its domestic law. In this regard, the severe restriction by Serbia in 1990 of Kosovo's provincial authority must be seen as having been harmful to the legitimate interests of the Albanian minority. Because of the size and geographic concentration of the Albanian population, Kosovo's situation is unique, and its problems require exceptional steps in order to be resolved.

53. Kosovo's Albanian leadership should acknowledge the legitimacy of the FRY's interest in defending the integrity of the State. Both parties should now commit themselves to finding a durable solution to the Kosove question in the interest of regional peace.

54. The FRY authorities must take immediate and much stronger action to stop the trend of violent human rights abuses by Serbian security forces against the Kosovo Albanian population. Schools and homes should be secure from arbitrary and illegal searches. Political prisoners should be released forthwith.

55. The Kosovo Albanian leadership must recognize that special measures should be taken by provincial authorities to safeguard the human rights of the local Serb minority.

56. The recent agreement between President Milosevic of Serbia and Dr. Rugova on the question of education is a major step forward. Both sides should take the opportunity immediately to continue and broaden this dialogue, including through direct talks.

D. Vojvodina

57. The current population of the province of Vojvodina, totalling about 2 million people, is a mixture of some 26 different ethnic, linguistic and cultural groups. While Serbs make up a slim majority in the province (around 57 per cent), Hungarians constitute the largest minority group, some 17 per cent. According to the 1991 census, other groups were represented as follows: Croats, 3.7 per cent; Slovaks, 3.2 per cent; Montenegrins, 2.2 per cent; Romanians, 1.9 per cent; Romanies, 1.2 per cent; Bujevci, 1.1 per cent; Ruthenians, 0.9 per cent; and Ukrainians, 0.24 per cent. Still smaller groups of Macedonians and Albanians also live in the region. The Hungarian community is mostly concentrated in settlements in and around the towns of Subotica, Backa Topola and Ada, while Croats live mainly in the areas of Srem, Backa and Banat, with the Croatian cultural centre located in Subotica.

58. Vojvodina's prior status as an autonomous province, within Serbia, like that of Kosovo, gave the provincial authorities wide-ranging legislative and executive independence from the central Government in Belgrade. However, as with Kosovo, the changes to Serbia's Constitution in 1990 reduced this autonomy considerably. At present, the Provincial Assembly has no actual legislative powers and can only make suggestions and recommendations on provincial matters to the parliament of the Republic of Serbia.

59. Under the arrangement currently in force in Vojvodina, in addition to Serbian, there are four official minority languages - Hungarian, Slovak, Romanian and Ruthenian - in use in provincial administrative and governmental bodies. Simultaneous interpretation in these languages is provided during sessions of the Provincial Assembly. According to government information a total of 45 municipalities in Vojvodina, on the basis of the Law on the Official Use of Languages, have local provisions regarding the use of minority languages. Thus, in addition to Serbian, Hungarian is the official language in 31 municipalities, Slovak in 12, Romanian in 10, Ruthenian in 6 and Czech in 1 municipality.

60. Primary education is provided in the minority languages mentioned above: Hungarian is used in 29 municipalities, Slovak in 12, Romanian in 10 and Ruthenian in 3 municipalities. At the secondary level, teaching in these languages is available in 12 high schools and 20 vocational schools. Higher education is given in Hungarian at 7 faculties, in Slovak at 2, in Romanian at 2 and Ruthenian at 2.

61. The Special Rapporteur visited Vojvodina on 24 and 25 June 1996 and met with both provincial authorities and with representatives of the Hungarian and Croat minorities in Novi Sad and Subotica. The information in the following paragraphs is based on data gathered during that visit and on additional reports received from governmental and local non-governmental sources.

1. Refugee resettlement in Vojvodina

62. With the outbreak of war in the former Yugoslavia, Vojvodina became the reception centre for a large number of refugees from Croatia and

Bosnia and Herzegovina. The latest major population transfers took place after Croatia's military operations against the so-called "Republic of Serb Krajina" in 1995, which resulted in more than 150,000 Serb refugees from the Krajina region crossing into the Federal Republic of Yugoslavia. According to the preliminary results of a recent refugee census, some 230,000 of the approximately 560,000 refugees now living in the FRY are accommodated in Vojvodina. This has clearly put a serious strain on the region's economic and social capacities.

63. Representatives of minorities have alleged that the resettlement of Serb refugees is aimed at altering the ethnic composition of the minority-dominated municipalities of Vojvodina. Information gathered through the above-mentioned census indicates that in municipalities in Vojvodina with a large minority population the proportion of refugees varies between 3 and 7 per cent. However, in some smaller towns and villages larger numbers of refugees have reportedly been accommodated, which has caused disquiet among local minority populations. While their concerns are understandable, it is clear that Vojvodina, owing to its relative wealth, must bear a reasonable part of the burden of assisting the enormous refugee population now living in the FRY.

2. The Hungarian community

64. During the arrival of large numbers of refugees from Bosnia and Herzegovina and Croatia, particularly in 1991 and 1995, many Hungarian families were forced to leave their homes under pressure and violent threats from some refugees and Serb extremist elements. It is estimated, in addition, that some 30,000 to 40,000 young Hungarians fled Vojvodina during the war years to avoid forcible conscription. Until recently these persons were unable to return to the Federal Republic of Yugoslavia owing to fear of prosecution. While an amnesty law was passed by the Federal Assembly on 18 June 1996, it is as yet unclear whether the draft evaders will consider the new law's safeguards sufficient for them to return. The fact that many of those who left were young and well educated has clearly weakened the position of the Hungarian minority still further.

65. Today, the main complaints and allegations heard from the Hungarian community relate to discrimination in access to public jobs and official use of their language. With the 1990 changes in autonomy status, the previous system of proportional minority representation in public offices - the so-called "national key" - was abandoned. As a result, there has been a significant decline in the number of Hungarians employed in the public sector, especially in the courts and in the police and border authorities. In some municipalities with a Hungarian majority, including Senta, Ada and Backa Topola, none of the presidents and few local court judges are Hungarian. In the courts of the provincial capital of Novi Sad, the number of Hungarian judges has reportedly dropped from 32 to 3 in the last six years.

66. According to article 19 of the Law on the Official Use of Languages, in municipalities where minority languages are in official use, topographical names and names of public institutions and enterprises shall be written in both Serbian and minority languages. However, it is reported that only about half of the offices of government authorities in Subotica, with a Hungarian

population of about 40 per cent, have signs and name-plates in Hungarian as well as Serbian. Many railway stations in Vojvodina use signs only in Serbian. Since most public officials are Serbs, Hungarians are frequently unable to use their language in dealings with the authorities.

67. Now that the administration of schools in the province is under the authority of the Government of the Republic of Serbia, decisions on appointments of principals and teachers as well as other issues of local importance are taken by the Ministry of Education in Belgrade. It has been reported that in this process, few Hungarians have been appointed as principals of primary and secondary schools. Textbooks for primary and secondary education for Hungarian pupils are translated directly from Serbian, in accordance with the uniform curricula in use throughout the Republic of Serbia, with little attention given to the particular interests of the Hungarian minority. Concerns have thus been expressed that the current curricula do not satisfy the need of Hungarian pupils to learn about their own history and culture.

3. The Croat community

68. It is reported that between 1991 and 1995, some 45,000 to 50,000 Croats fled the Federal Republic of Yugoslavia mainly because of terror and intimidation organized by local nationalist Serb groups and Serb refugees arriving from Croatia. Harassment and violence reached a high point at the beginning of the fighting in Croatia in 1991, and reportedly rose again in August 1995 following Croatia's military operations against the so-called "Republic of Serb Krajina". A number of villages in the border areas around Sid and Sombor were particularly affected by violent attacks. In the village of Stanisici, close to Sombor, 20 attacks with explosives and grenades and one case of arson were reported between 1991 and 1995. As a result some 87 Croat families fled the village, with the last group of 43 families leaving in August 1995. It is further reported that on 8 August 1995, in the village of Kukujevci, near Sid, a group of armed men in uniform broke into a number of Croat homes and severely ill-treated the inhabitants. Similar incidents have been reported in Hrtkovci and Novi Slankamen. Catholic churches have been the target of several attacks, and members of the clergy have reportedly been abused by both the police and local civilians. Allegedly, Serbian police reacted slowly and reluctantly to most of these criminal acts. However, in late 1995, the police reportedly intensified some patrols in the region, improving the security situation of local Croats.

69. It has been reported that members of the Croat minority have largely been blocked from employment in public institutions and offices. Allegedly in Subotica, with a 10 per cent Croat minority, the police force does not have a single Croat officer, and only 2 of the 60 local judges are Croats. Croats in this community have had serious difficulties in regularizing their citizenship status and obtaining documents and passports. Croats born in other parts of the former Yugoslavia but who have lived in the Vojvodina region for decades are not allowed to register ownership of property in the FRY, which prevents them from selling or otherwise transferring it.

70. Concerns have also been expressed regarding the difficult cultural and educational situation of the Croat minority. No Croatian newspapers or magazines are published locally, and media from Croatia have not been available in Serbia since the beginning of the conflict. Cultural heritage is also endangered by the fact that no classes in Croatian history and culture are arranged for children at school.

4. Conclusions and recommendations

71. The Governments of the FRY and the Republic of Serbia deserve credit for certain measures which have been taken in the province of Vojvodina for the promotion of minority rights. It is true that serious problems have affected the region, most disturbingly the violent incidents of abuse, including forcible evictions from homes, which have been permitted to take place against certain communities, especially Croats and Hungarians, in connection with events in the war in neighbouring Croatia. However, some success has been achieved in advancing the interests of the area's different minority groups, including through the provision of education in minority languages and the use of different official languages for administrative business.

72. The revision of Vojvodina's provincial status in 1990, however, has resulted in some unsatisfactory consequences, including the removal of control over some administrative matters from local authorities to central authorities in Belgrade, who have on occasion taken decisions incompatible with local needs. The Serbian authorities should return greater decision-making power in matters of local concern, such as the content of school curricula and the choice of educational administrators, to the community level in Vojvodina, to better ensure the protection of minority rights. The sharp drop in the number of important local posts, such as judgeships and positions within the police, which are held by members of local minorities is a matter of particular concern and should be energetically remedied.

73. While the resettlement of large numbers of Serb refugees from Croatia and Bosnia and Herzegovina in many areas of Vojvodina has placed a significant burden on local resources, it is understandable that the authorities would call upon the region to assume substantial responsibility in this area, in view of Vojvodina's relative wealth. Refugees, of course, are entitled to decent treatment as they contend with the upheaval in their lives. It will be essential for authorities in Vojvodina to manage this process of resettlement which, it is hoped, will be only temporary in many cases, with care, distributing the economic and social burden among established communities evenly, ensuring that order is maintained and above all preventing and, if necessary, remedying violent acts committed against members of minority communities.

74. The FRY Government's passage of the amnesty law of June 1996 benefiting persons who avoided military service is a welcome development. The authorities should take measures to ensure that its provisions are applied generously, and that former residents of the area can return without fear. Also in the interest of promoting goodwill in Vojvodina, the authorities should undertake additional confidence-building measures for minority

populations, including ensuring greater use of minority languages in official contexts and permitting the distribution of a wider range of media of interest to minorities.

E. The situation in Sandzak

75. The region commonly known as Sandzak, bordering on Bosnia and Herzegovina, is administratively divided between the Republics of Serbia and Montenegro. According to data from the 1991 census, the population of the region at that time was some 60 per cent Muslim and 40 per cent Serb and Montenegrin. In the Serbian part of Sandzak, Muslims made up the majority or around 63 per cent of the total population; on the Montenegrin side, the corresponding figure was approximately 47 per cent. However, these proportions may have changed significantly owing to large-scale migrations from the region in the last five years.

76. Political tensions have persisted in the Sandzak region since the break-up of the former Yugoslavia. The situation turned increasingly precarious in October 1991, when the Muslim Party of Democratic Action (SDA) of Sandzak organized an unofficial referendum on autonomy for the region. According to SDA sources, 98.9 per cent of the votes cast were in favour of an autonomous Sandzak.

1. Police abuse and arbitrary arrests

77. The FRY authorities have responded to the volatile situation in Sandzak by strongly increasing the presence of military and police units in the region. In the last several years there have been continued reports of serious human rights abuses perpetrated both by the Yugoslav authorities and by Bosnian Serb paramilitary forces crossing into Sandzak from the Republika Srpska. With the declared aim of looking for hidden arms, the police have carried out systematic searches of Muslim homes in locations throughout the region. Numerous cases of arbitrary arrests, interrogations and ill-treatment or torture have been reported and documented in connection with these raids, in which members of the SDA, other political activists and journalists appear to have been particularly targeted. The authorities have reportedly taken little or no action to investigate or put a stop to these abuses. The situation has now calmed somewhat with only sporadic incidents reported in the last year. It is nevertheless clear that the Government of the Federal Republic of Yugoslavia continues to bear responsibility for investigating past abuses in order to bring the persons responsible to justice.

2. Harassment and forced displacement

78. Harassment, intimidation and violence against the local Muslim population were reportedly particularly intense in the Sjeverin-Bukovica area near the Bosnian border from 1992 to 1994. Bosnian Serb irregulars and paramilitary units are believed to have been responsible for most of these abuses, but it appears that the Yugoslav army and police did little to stop the incursions and protect the population. It has also been alleged in some cases that members of the military and police of the Federal Republic of Yugoslavia have participated in violent attacks.

79. As a result of the violence, an estimated 60,000 to 80,000 Muslims have left the Sandzak region since 1992 and found refuge in various Western European countries. Some of the approximately 3,000 persons who fled border villages like Sjeverin, Batkovce, Kukurovici and Sastavci settled in the town of Priboj in the Serbian part of Sandzak, where 96 displaced Muslim families - nearly 500 persons - now live with friends and relatives. Another 46 Muslims displaced from the Bukovica area in Montenegro have settled in the town of Pljevlja. It is estimated that around 1,500 persons were forced to leave their homes in the Bukovica area.

80. During her visit to Sandzak in early May 1996 the Special Rapporteur visited the village of Sjeverin near Priboj. Previously, she had received reports that of some 336 Muslims who used to live in the village, only 12 remained. These reports also indicated that most of the abandoned houses had been looted and some burned by local civilians and paramilitary gangs between 1992 and 1994. In Sjeverin, the Special Rapporteur was able to confirm that the majority of abandoned houses had indeed been looted and in some instances partly destroyed. However, in most cases the damage did not appear to be irreparable, giving rise to the hope that displaced villagers would eventually return. It is nevertheless clear that a survey of the affected villages would be needed to assess the total extent of the destruction.

81. In Priboj, the Special Rapporteur had the opportunity to meet with representatives of the displaced persons living there. Most of the people were farmers, now cut off from their land and therefore without income. As they had not been recognized as displaced persons by the Serbian authorities, they faced serious difficulties in obtaining government assistance. Some of the displaced who were employed in local industry in Priboj before the war had managed to keep their jobs and stay in the town with friends or relatives. The majority of the displaced expressed the wish to return to their homes, but only with adequate safety guarantees from the authorities.

82. Most Muslims remaining in the Sjeverin area are elderly and only survive with help received from sympathetic Serb neighbours, since very little aid is distributed by the authorities. In the Sjeverin area, which can be reached directly from Priboj only by a road which crosses the territory of the Republika Srpska, the remaining Muslims are effectively isolated. After the abduction of 17 Muslims from a bus in October 1992, the authorities, citing security reasons, have prevented Muslims from using the road connecting Sjeverin to Priboj. Consequently, the Muslim inhabitants now have to walk 40 kilometers through mountainous terrain to reach Priboj. For the elderly this is obviously impossible. Other villages are even more isolated, as they are situated some 120 kilometers from Priboj, and inhabitants are cut off from all services including medical care and education. It is reported that the security situation of the Muslims remaining in Sjeverin has improved somewhat in the last year, with new police in charge and paramilitary elements gone from the area.

83. Following her visit to the Priboj area, the Special Rapporteur has on several occasions discussed the plight of the displaced with the competent authorities in Serbia and Montenegro, and stressed their responsibility to

assist these persons to return to their homes in safety and dignity. In this regard, she is encouraged to note that the Government of Montenegro, in cooperation with the Office of the United Nations High Commissioner for Refugees, is currently preparing a return programme for the displaced in Pljevlja. The Montenegrin authorities have also recognized the villagers in Pljevlja as displaced persons and distributed assistance covering their basic needs. As a first stage in the return project, on 8 August 1996 a group of villagers, with the assistance of the Montenegrin Ministry of Interior, was able to visit and inspect their homes in the Bukovica area for the first time in years. The displaced in Priboj have approached the Government of Serbia requesting assistance in arranging a similar visit to their homes near Sjeverin. However, it appears this request has gone unanswered. The Special Rapporteur has appealed to the Government, including the President of Serbia, to enable these persons to visit their homes and to assist in their eventual return. In a meeting with the Special Rapporteur in Belgrade in October 1996, however, the Serbian Minister of Interior offered no new hope in this regard. The Special Rapporteur intends to pursue this issue with the competent authorities in the months to come.

3. Abductions

84. A number of large-scale abductions of Muslims have occurred in recent years, mainly in the areas around Sjeverin and Bukovica. On 22 October 1992, 17 persons from Sjeverin were taken from a bus at the village of Mioce, allegedly by paramilitary forces. This happened on the short part of the road which runs through the territory of Republika Srpska in Bosnia and Herzegovina. On 15 February 1993, 11 Muslims were taken from their homes in Bukovica village in Montenegro, allegedly by Bosnian Serb irregulars. Six of them were later returned after having been held for three weeks in the police station in Cajnice, Republika Srpska. It appears that the remaining five persons were handed over to the authorities of Bosnia and Herzegovina in March 1993 in connection with a prisoner exchange. On 27 February 1993, a passenger train en route from Belgrade to Bar was stopped at the Strpci station. A group of armed men wearing unmarked camouflage removed 19 Muslim men from the train. The group is believed to have been transported by truck to Visegrad in Republika Srpska, where they were allegedly all killed. Other cases of smaller-scale abductions have also been reported, the last one on 6 April 1993.

85. The official investigations of these abductions launched by the Serbian and Montenegrin Ministries of Interior have been inconclusive, and the Special Rapporteur is concerned that no official reports of the inquiries have been published. In October 1993, the Montenegrin parliament established a special committee to investigate the abduction at Strpci. However, it is reported that the committee's inquiries failed to produce any results, mainly owing to lack of cooperation from the Montenegrin Ministry of Interior. During her visit to Prijepolje in May 1996 the Special Rapporteur met with a group of relatives of persons abducted at Strpci, who confirmed that they had received no information about the fate of their family members. Following her mission the Special Rapporteur wrote a letter on 31 May 1996 to the Minister of Interior of Serbia, requesting information on the current state of investigations into the abductions. On 24 June 1996 the Secretary of the

Commission for Humanitarian Questions and Missing Persons of the Federal Government, Mr. Maksim Korac, replied to her letter claiming that the Commission had no knowledge of the incidents. A subsequent letter to the Special Rapporteur from the Serbian Minister of Interior in July 1996 stated that the Republic of Serbia had no jurisdiction over the incident since it had evidently happened on the territory of the Republika Srpska, in Bosnia and Herzegovina. However the Minister indicated that communications for the purpose of clarifying the abductions had been established with the competent bodies of the Republika Srpska.

86. During her visit to Podgorica on 7 August 1996, the Special Rapporteur met with the Montenegrin Minister of Interior and discussed the above-mentioned abductions at length. While it appears that investigations are continuing, the Montenegrin authorities have not provided any new information to clarify the incidents. The Special Rapporteur in her contacts with the Governments of Serbia and Montenegro has continued to emphasize their responsibility to investigate the abductions, and has suggested that an international body of experts be set up to assist the Yugoslav authorities in their work.

4. Discrimination

87. While the security situation in the Sandzak region appears to have improved in the last year, the Special Rapporteur has received a number of reports alleging discrimination and unequal treatment, particularly regarding the education and employment opportunities of the Muslim population.

88. Many of the complaints from representatives of the Sandzak Muslims concern the allegedly biased contents of the school curricula. Although the Special Rapporteur has not been in a position to verify these allegations, it would appear that the literature and teaching aids used in classes include very few elements of Muslim culture and history. It is also reported that some history and geography textbooks contain material presenting the Muslims and their role in the region's history in a negative and sometimes hostile way.

89. In recent years a large number of medical personnel of Muslim origin have reportedly been dismissed from their jobs. According to these reports, since 1992 about 40 per cent of the Muslim doctors in the region have been fired or demoted to insignificant posts on vague grounds. It appears that persons not belonging to the ruling Socialist Party have in particular been subjected to this form of discrimination. Similar dismissals have been reported from the police forces, the army, schools and other public institutions. The Special Rapporteur intends to investigate these allegations further and return to the issue in her future reports.

5. Conclusions and recommendations

90. Although violent human rights abuses against the Muslim minority in the Sandzak region have significantly declined, there remains an urgent need to clarify the grave incidents which have occurred since 1992, and to punish those responsible. Furthermore, the authorities of the Republic of Serbia

should take measures to remedy the situation of displaced Muslims who were forced from their homes in the Priboj area. In this regard, the initiative of the authorities of the Republic of Montenegro to begin the process of return to the Bukovica area is a most welcome development.

91. The violence suffered, in some cases, at the hands of the FRY authorities by Muslim residents of Sandzak, the authorities' failure to take Muslims' cultural identity properly into account in fields such as education, and persistent discrimination have resulted in an unsurprising lack of confidence among the region's minority Muslim population. Official policies and practices implemented by the FRY authorities are inconsistent with their obligations under international and national law and require urgent revision.

92. The participation of all parties in the FRY elections in November 1996 will be a positive sign for future developments in the Sandzak area. The FRY authorities should reinforce the improving climate by undertaking new measures, including ending discrimination against Muslims in public employment and ensuring their meaningful participation in local government.

F. The Bulgarian community

93. The Special Rapporteur met with representatives of the Bulgarian community during her visit to the Federal Republic of Yugoslavia in May 1996. This minority makes up about 0.3 per cent of the total population of Serbia (some 25,000 people) and is concentrated mostly in settlements in and around the towns of Dimitrovgrad, Bosilegrad and Z[illegible]ac in south-eastern Serbia.

94. The main allegations and complaints on human rights issues brought by this community focus on education. According to government information, instruction in the Bulgarian language is available in 38 primary schools in Bosilegrad and Dimitrovgrad. However, the Special Rapporteur has been informed that in some instances local educational authorities have discouraged both teachers and pupils from using the Bulgarian language in class. Schools for the Bulgarian minority are further allegedly denied the right to celebrate the Bulgarian national holiday, St. Cyril and Methodius Day. Most historical monuments of importance to Bulgarians are reportedly in a dilapidated condition owing to lack of maintenance, and it appears that the authorities are doing little to improve the situation.

G. The situation of minorities in the Republic of Montenegro

95. During her visit to Podgorica in August 1996, the Special Rapporteur held lengthy discussions on the situation of the country's minorities with President Bulatovic and with the Ministers of Interior and Justice of the Republic of Montenegro. The visit also included meetings with representatives of local non-governmental organizations, in which a number of problems of particular concern to the local Albanian and Croat minorities were raised. The situation of the Muslim community in the Sandzak region has already been discussed above.

96. The Republic of Montenegro, pursuant to article 76 of its Constitution, has established a Council for Protection of the Rights of National and Ethnic

Groups to protect and promote the ethnic, cultural, linguistic and religious identities and the constitutional rights of minorities. The Council, which is appointed by the parliament, includes among its members representatives of minority groups as well as politicians and experts, and is chaired by the President of the Republic. This body plays a mainly supervisory role in the preparation of legislation and formulation of government policies in the field of minority protection.

1. The Albanian minority

97. Ethnic Albanians constitute around 7 per cent of the population of Montenegro and mostly live in settlements around the town of Ulcinj. This predominantly Muslim community has also suffered in the hostile atmosphere of the war years, mainly from hate messages in the media and harassment by radical elements. However, the proximity of the relatively porous border with Albania has enabled it to maintain both cultural and economic links, leaving the community less isolated and vulnerable than other minorities. Most of the complaints of the Albanians concern the educational system and particularly the curricula, which apparently include few references to Albanian culture and history. While Albanian-language primary schools do exist in municipalities which are predominantly Albanian, secondary and higher education exists only in the majority language.

98. The Albanians in Montenegro are politically represented by the Democratic Party of Albanians. Allegedly, the State media seldom report on or publish statements by the party. Local Albanians also reportedly feel that Albanian-language broadcasts of State television and radio merely represent the views of the central government in Podgorica rather than the particular interests and concerns of their minority group. The radio station in Ulcinj, run by the Albanian-led local government, broadcasts half of its programmes in Albanian. However, this station can only be heard in the town itself. Some four years ago KOHA, the only Albanian news magazine in Montenegro, was closed down, apparently due to economic difficulties. A group of local journalists has launched an initiative to establish a new daily newspaper in the Albanian language, but financial obstacles have so far prevented its appearance.

2. The Croat minority

99. According to the 1991 census, Croats made up around 1 per cent of the population of Montenegro. The majority of this group lived in the west around the towns of Tivat and Kotor, close to the Croatian border where tensions have remained high in recent years. It is reported that particularly in the years 1992-1994, the local Croat population suffered repeated incidents of harassment, threats and, in some cases, violent attacks, perpetrated mostly by extremist elements. Local Catholic clergy were allegedly subjected to verbal abuse and threatening phone calls. While the police appear to have taken some action to curb the violence, investigations of the incidents have been inconclusive. Because of the harassment and the area's difficult social and economic situation, a large number of Croats left for Croatia, most doing so at the beginning of the war. It is reported that the population of Tivat, which was 50 per cent Croat before the war, today is only 20 per cent Croat.

Since many of the persons who left were young and well-educated, there is reason to fear that the exodus will have serious consequences for the future prospects of Montenegro's Croat minority.

100. The Croat population's current problems mostly concern job discrimination. The majority of the Croats in the Kotor area have traditionally been employed in the ship-building industry. Owing to economic difficulties unemployment has risen dramatically in the region, and more often than not, Croats were allegedly the first to have been laid off. Croats have also reportedly been dismissed from posts in the public sector, particularly in the courts and schools in Tivat and Kotor.

III. SITUATION OF MINORITIES IN THE REPUBLIC OF CROATIA

A. Background

101. The Republic of Croatia, which declared independence from the SFRY in 1991, is a multi-ethnic society with a large majority of Croats. According to the 1991 census, Croats at that time constituted some 84 per cent of the country's total population of 4,780,000, followed by Serbs (12 per cent), Muslims (0.9 per cent), Slovenians (0.5 per cent), Hungarians (0.5 per cent), Italians (0.4 per cent), Czechs (0.3 per cent) and smaller numbers of Montenegrins, Albanians, Germans, Romany and other groups. The size of Croatia's Serb population changed dramatically in the summer of 1995, when nearly one third of the pre-war total of some 581,000 persons fled from Croatia to neighbouring countries, mainly Bosnia and Herzegovina and the Federal Republic of Yugoslavia, following Croatia's successful military action against the self-proclaimed "Republic of Serb Krajina (RSK)". However, many Croatian Serbs had already left the country in the years following Croatia's declaration of independence for a variety of reasons, including concerns about their personal security and future prospects within Croatian society.

102. Prior to 1991 Croatia's Serb population lived throughout the country, principally in the urban centres of Zagreb and Split, in border areas adjacent to north-west and western Bosnia and Herzegovina and in large parts of Eastern and Western Slavonia in the east of the country. After Croatia's declaration of independence in 1991, the de facto political leadership of a large part of Croatia's Serb population decided unilaterally to attempt to create a state, the so-called "RSK", in border areas close to Bosnia and Herzegovina and the Republic of Serbia, and to declare its secession from Croatia. Heavy fighting ensued between Croatian government and "RSK" forces, followed by a fragile cease-fire negotiated in 1992 under the auspices of the United Nations. For the next four years Croatia remained essentially divided, with the de facto authorities of the "RSK" controlling some 25 per cent of the country's territory.

103. Territory controlled by the "RSK" was itself divided into four designated "United Nations Protected Areas (UNPAs)", known as Sectors East, West, North and South, which were monitored by United Nations peace-keeping forces while attempts were made to resolve the two sides' differences. The attempts proved largely fruitless and the situation remained at an impasse,

with occasional outbreaks of fighting, until 1995 when the Croatian Government undertook military action on its own to recover control over three of the four UNPAs. It was these military operations in 1995 which resulted in the flight from Croatia of between 150,000 and 200,000 persons, mostly Croatian Serbs, from territory controlled by the "RSK" to neighbouring countries.

104. As for the fourth UNPA, Sector East, located in the Eastern Slavonia region of Croatia and bordering on the Republic of Serbia, the Basic Agreement on Eastern Slavonia, Baranja and Western Sirmium concluded in December 1995 between the Government and the de facto Serb authorities provided for the territory's peaceful reintegration into Croatia within a one- to two-year period. The Eastern Slavonia region is now administered by a transitional authority, the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES), which is charged with the responsibility for overseeing the reintegration process.

105. An examination of the many reasons why parts of Croatia's Serb population chose to attempt to secede from Croatia is beyond the scope of this report, although some reflection has been given to this question. Of immediate concern is the extent to which Croatia's present policies and practices may serve to safeguard the legitimate concerns of Croatia's minority Serb population and its position within Croatia's constitutional framework. The following paragraphs consider this question, and that of Croatia's approach to minorities generally since the country is also home to other (much smaller) minority populations. The discussion takes into account the document provided to the Special Rapporteur in June 1996 by the Government of Croatia, "Report by the Government of the Republic of Croatia on the Implementation of Cultural Autonomy of the Members of Ethnic and National Communities or Minorities in the Republic of Croatia", as well as information gathered independently by the field office of the United Nations High Commissioner for Human Rights in Zagreb.

B. National and international legal provisions

1. Constitutional and other national legislation

106. The Constitution of the Republic of Croatia, adopted in 1991, proclaimed the establishment of Croatia as "the national state of the Croatian nation and a state of members of other nations and minorities who are citizens: Serbs, Moslems, Slovenes, Czechs, Slovaks, Italians, Hungarians, Jews and others, who are guaranteed equality with citizens of Croatian nationality and the realization of ethnic rights in accordance with the democratic norms of the United Nations Organization and the free world countries" (Preamble). The Constitution provides for equality before the law for all citizens (art. 14), equal rights for members of all nations and minorities (art. 15) and freedom for members of all nations and minorities to express their nationality, to use their language and script, and to cultural autonomy (art. 15). Any call for or incitement to national, racial or religious hatred or any form of intolerance is prohibited and punishable (art. 39).

107. Under the previous republican regime of the Socialist Republic of Croatia, as well as that of the Socialist Federal Republic of Yugoslavia,

Serbs as well as Croats were "constituent nations" of the State. The Constitution of 1991 effectively changed this classification, instead designating Serbs as one of a group of "other nations and minorities", guaranteed equality, who, together with "the Croatian nation", comprised the citizens of the State. The relegation of Serbs from a "constituent nation" to a status perceived to be lower in the legal scheme certainly played a role in some Serbs' decision to attempt to secede from Croatia in 1991.

108. Pursuant to articles 14 and 15 of the Croatian Constitution, the Croatian Government in 1991 adopted a Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia (hereafter, "Constitutional Law on Human Rights"). This legislation, referring expressly to the international obligations of Croatia and to the relevant international norms, 7/ contains important measures for the protection and promotion of minority rights. These include the right to cultural autonomy (art. 5); observance of the principles of non-discrimination and the right to identity, culture, religion, education, and public and private use of a language and alphabet (art. 6); the protection of the right to equality of participation in public affairs (art. 6) and establishment of a special political status, resulting in a form of limited self-rule, for districts where members of ethnic and national communities or minorities form a majority of the population (art. 13). 8/ Article 18 grants special rights of representation at the national level to populations numbering more than 8 per cent of the total population of the country.

109. Articles 13 and 18 were among several provisions of the Constitutional Law on Human Rights suspended by the Government in September 1995, after Croatia's military operations against the "RSK". According to the terms of the suspension, it will remain in effect until the next census. The Government took the position that the departure of large numbers of Serbs from Croatian territory rendered inoperative the Law's provisions granting special self-rule and national representation to Croatian Serbs. Since Serbs no longer constituted more than 8 per cent of the country's population, the Government contended, they no longer could avail themselves of the Law's provision for proportional representation in the Croatian parliament, government and supreme judicial bodies, nor could the districts which previously had a Serb majority exercise limited self-rule. As a consequence of the suspension, the number of seats reserved in the parliament for Croatian Serbs was reduced from 13 to 3, and the Croatian Serbs' opportunities for participation in local government were sharply reduced. Croatia's decision to suspend these provisions of the Law has provoked sharp international reactions, including several calls upon Croatia by the Security Council to reinstate the suspended provisions. 9/

110. Croatian law contains other important provisions concerning the rights of Croatian Serbs and other minorities. These include the Charter on the Rights of Serbs and Other Nationalities, proclaimed in 1991, which guarantees freedom of speech and the advancement of national language, identity and culture, as well as freedom of political activity and association. The Government has also established an Office for Inter-Ethnic Relations to facilitate policies and help implement harmonious inter-ethnic relations.

111. Much of the legislation affecting aspects of minority rights in Croatia is directly applied from constitutional provisions, while other aspects are implemented by national and local regulations. Important laws are still in place which address such themes as education, the media, and cultural activities. The Croatian Government has advised the Special Rapporteur that a new law is being drafted on the provision of education in the languages of national minorities.

2. International obligations

112. Like other countries of the former Yugoslavia, Croatia is a State party to the main international instruments relating to the promotion and protection of human rights, which encompass the rights and freedoms of minorities, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child. The Government has maintained a constructive dialogue with the various treaty-monitoring bodies associated with these instruments. Croatia, which has just been admitted to the Council of Europe, has also declared its commitment to honouring the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms and those of the Helsinki Conference Final Act.

113. Croatia has entered into a number of bilateral and multilateral agreements designed to protect the interests of minority groups. These include a Memorandum of Understanding signed with the Government of Italy in 1992 on the protection of the Italian minority in Croatia, a Declaration on Minority Rights adopted jointly with Hungary and Ukraine, and other agreements reached with Slovenia and Romania. Of special note, and discussed below, is the agreement concluded with the Federal Republic of Yugoslavia on 23 August 1996, which represents an important step forward for the protection of the Serb and Croat minorities in the two countries.

3. National recourse mechanisms open to members of minorities

114. The Constitutional Law on Human Rights specifies, in article 61, that districts with a "special status", i.e., designated Serb-majority districts, can lodge a complaint with the Constitutional Court if they believe that decisions of the authorities have violated the rights of a protected community or minority. However, Croatia, by its decisions of September 1995, also suspended the application of article 61. The Constitutional Law on Human Rights further refers to the creation of a Provisional Court of Human Rights. The establishment of this mechanism failed to materialize, despite strong recommendations from numerous authorities, including the Special Rapporteur. The Council of Europe has now determined the establishment of such a court to be inappropriate, since Croatia will likely soon join the Council and thus be subject to the jurisdiction of the European Court of Human Rights. However, the Council's European Commission for Democracy through Law (Venice Commission) has recommended instead that Croatia consider the passage of constitutional amendments which would revise the functioning of the

Constitutional Court, allowing it to sit as an enlarged body, supplemented by international judges, when it is seized of questions concerning minority rights. 10/

115. Regarding the suspension of provisions of the Constitutional Law on Human Rights, the Venice Commission took the position that "the suspension of the law was not indispensable". The Commission continued, "The provisions could validly have continued in force, although in that case they would not for the moment have any practical application because of the demographic changes which have occurred ... . Moreover, the Rapporteurs remain concerned at the discouraging psychological effect that the suspension would certainly have on minorities and displaced populations which would like to remain in or return to Croatia ... . In the opinion of the Rapporteurs, the Constitutional Law of 1991 deprived of its above provisions cannot be said to constitute an adequate response to the new situation. A revision of the suspended provisions is necessary ... ". 11/

116. Croatia adopted a law creating an Ombudsman (in Croatian, pucki pravobranitelj, or "defender of the people's rights") in 1992. The Ombudsman, who under the law shall be a person known for personal engagement in human rights, has considerable freedom to investigate allegations of human rights abuses. The office by law is independent, and is to be undertaken in view both of Croatian law and the country's international obligations. The Ombudsman can receive individual complaints, has access to all official documents, and can initiate criminal and disciplinary proceedings, although the office has no power to issue enforceable decisions.

117. The Special Rapporteur has previously expressed concern regarding the record of the Ombudsman in Croatia. 12/ The first Ombudsman, appointed in 1993, reportedly made little effective use of the office. A new Ombudsman was appointed in June 1996. The Croatian Government has notified the Special Rapporteur that the Ombudsman's office will soon be strengthened by increasing the number of deputies from 3 to 20, permitting the office to be represented in every county in the country.

4. Citizenship

118. As has been noted earlier, meaningful access to citizenship is a prerequisite to full access to the benefits of a State's protection, including the protection of minority rights. Following a State's dissolution, minorities in successor countries can face unusual difficulties in resolving their citizenship status. Reports indicate that this has been the case in Croatia.

119. The Croatian parliament adopted the Law on Citizenship in 1991. The Special Rapporteur has been informed that minority residents of Croatia, and particularly Serbs, have encountered difficulty in acquiring citizenship to which they would appear to be entitled. Problems have arisen in part from the provision of the Law which requires that citizenship depends, among other things, on a conclusion that an applicant is "attached to the legal system and customs persisting in the Republic of Croatia and that he or she accepts the Croatian culture" (art. 8). According to article 26, the Ministry of Interior

may deny a petition for citizenship "if it is of the opinion that there are reasons of interest for the Republic of Croatia" for such a denial. The Special Rapporteur has received reports of citizenship being denied, without further explanation, to Croatian Serbs on these bases.

120. The question of access to citizenship has acquired a special urgency with respect to persons residing in the former Sectors who, during the existence of the de facto Serb regime, never had the opportunity to apply. Croatia has now established offices in the former Sectors West, North and South to process applications for citizenship and other social benefits, and with the assistance of UNTAES has undertaken similar measures for persons residing in the former Sector East. The Special Rapporteur has been informed that in some locations application procedures for citizenship and entitlements have proceeded efficiently, while in others requests from Croatian Serbs appear to have become stalled. Reports have been received, particularly from the former Sectors North and South, that Serbs have faced hostility and lack of cooperation from local government officials in the processing of applications.

121. Problems have also been noted for persons, including Muslims, who before the war resided in Croatia across the border from Velika Kladusa in Bosnia and Herzegovina and who sought refuge in the Velika Kladusa area during the four years of hostilities. These persons' departure from Croatia reportedly has been used as grounds for denial of citizenship to them upon their return.

122. A major citizenship question is posed by the situation of more than 200,000 Croatian Serb refugees now residing in the Federal Republic of Yugoslavia. While many of them who may wish to return to Croatia possess valid claims to citizenship, their inability to prove eligibility under present circumstances places them in a difficult position, rendering them for practical purposes stateless. Croatia has failed so far adequately to address this problem, and instead has used these persons' absence from Croatian territory to justify the decision suspending constitutional provisions related to the rights of the Serb minority. The situation of these Croatian Serbs may be compared to that of expatriate Croats who, even if they have no intention at present of returning to Croatia, may acquire Croatian citizenship abroad and be permitted by law to vote in Croatian elections.

C. The situation of Serbs currently in Croatia

1. Personal security

123. The situation of Serbs still in the former Sectors West, North and South is one of the most serious human rights concerns in Croatia. The Special Rapporteur has detailed at length in previous reports the pattern of violent human rights abuses suffered by Croatian Serbs in these areas in the aftermath of last year's military operations "Flash" and "Storm", and the Croatian Government's failure to take effective protective action. 13/ United Nations officials estimated that at least 150 killings and 5,000 cases of arson were perpetrated in the weeks following the conclusion of military operations.

International observers attributed the prevailing climate of lawlessness in part to an absence of an adequate and professional police force in the region. 14/

124. In a letter to the Chairman of the Commission on Human Rights dated 22 August 1996, the Special Rapporteur relayed her most recent impressions following a mission she conducted to former Sectors North and South earlier that month. The letter stated in part:

> "Unfortunately, one year after Operation Storm, it is evident that the Croatian authorities are still not providing adequate security to the residents of former Sectors North and South. During my mission I learned of numerous recent cases of looting, arson and harassment in the region, in which most of the victims have been Croatian Serbs. There is also an ominous new problem of bombing incidents, which have caused at least three deaths. I met one woman who was badly injured, along with her husband, when a device exploded as they were entering their house near Korenica on 24 May 1996. She suffered a broken arm and numerous serious shrapnel wounds, while her husband, who is still in hospital, suffered two broken legs ... .
>
> "Mr. Chairman, the continuing state of insecurity in former Sectors North and South so long after last summer's military operations leads me to conclude that there apparently is an unwillingness on the part of the Croatian authorities to take strong preventive measures to ensure the safety of local residents. I am deeply concerned at this situation for many reasons, including its likely effect on the decisions of Croatian Serbs who are considering either remaining in - or returning to - the area ...".

125. The Croatian Minister of Foreign Affairs responded to the Special Rapporteur's comments regarding violent incidents in a letter addressed to the Chairman of the Commission on Human Rights in September 1996. The Minister wrote in part:

> "In order to ensure law and order in the liberated territories, the Croatian Government has to date undertaken significant measures towards providing security to the population living in these areas, including the deployment of additional police forces. These measures cannot be put into question despite the few regrettable incidents referred to in the Special Rapporteur's letter.
>
> "[S]everal problems were initially encountered due to the lack of adequate law enforcement personnel deployed in these areas, though notable improvements have been made to date in this respect. Indeed, Croatia's positive efforts have been acknowledged in several reports by the Secretary-General, the High Commissioner for Human Rights, and the Special Rapporteur herself".

126. However, despite measures which the Government says have been taken, violent incidents against Croatian Serbs in the former Sectors have continued to be reported up to September 1996. For example, a couple of mixed (Serb and Croat) nationality was killed and their house destroyed by arson in an attack in the village of Bukovica (former Sector North) on 11 September 1996. On 2 September, a Serb woman was assaulted by three looters in Marici (former Sector South) when she tried to prevent them from taking roof tiles from her home. The men pelted her with stones and fired a pistol at her as she ran away.

127. The Special Rapporteur has noted other areas of concern to Serbs in Croatia, including the question of property rights. During her mission in August 1996 she learned of numerous cases of Croatian Serbs who, attempting to return to their homes in the former Sectors, have been unable to gain possession of them because they are occupied by Croatian refugees, most of whom are from Bosnia and Herzegovina. While the Special Rapporteur believes that refugees as a group do not deserve blame for this situation, it is clear that the Croatian authorities must act firmly to safeguard property rights of Serbs in the former Sectors. Another area of concern, already noted above, involves difficulties which Croatian Serbs have encountered in acquiring documents necessary to obtain social benefits. On the other hand, the Government of Croatia should be given credit for positive steps it has taken in cooperation with international agencies, to alleviate the humanitarian plight of Croatian Serbs still residing in the former Sectors West, North and South, many of whom are elderly.

128. The success or failure of Croatia's measures to create acceptable conditions of security and dignity for members of its Serb population in the former sectors will finally be revealed by the number of Serb refugees from among the 150,000 to 200,000 now in the Federal Republic of Yugoslavia who are able and willing to return to the country. As of 12 October 1996, the Croatian Government reported that some 12,000 had received permission to return, mostly on the basis of proof of citizenship and family reunification. However, in a mission to the former Sectors North and South in August 1996, the Special Rapporteur concluded that fewer than 2,000 of these persons appeared actually to have returned to their residences in the sectors themselves.

129. The Special Rapporteur in reports issued since 1993 has described problems encountered by members of Croatia's Serb population at locations throughout the country. These have included incidents of killings apparently motivated by nationality, such as those of the Zec family in Zagreb in 1991 and of suspected Serbs in the Lora military barracks in Split in 1992, 15/ neither of which has been resolved by the authorities. The Special Rapporteur has provided extensive information on violent evictions, mostly of Serbs, from State-owned properties, which generally have gone unremedied by the courts, and on discrimination in employment. 16/ There have also been incidents of incitement to nationality-based hatred in public statements, with no evidence of appropriate legal action taken to redress them. 17/

130. The question of culture-sensitive education for Serbs, in conformity with Croatia's national and international legal obligations, has posed a

problem in Croatia. Little action was taken on this issue during the hostilities between the Government and the "RSK". Some educational programmes on Serb religious culture were offered in certain communities, including Pula, Rijeka and Gorski Kotar. However, references to Serb history, literature and culture were reportedly dropped from many school curricula, and there was no instruction in the use of the Cyrillic alphabet, which historically has been used by Serbs. At present Serbs in Croatia still lack specialized textbooks about their language, culture and history. For the last several years, however, the Serbian cultural association Prosvjeta has worked with the Croatian Ministry of Education and Sport to elaborate a programme of education for elementary schools. On 23 September 1996 the Ministry agreed to implement recommendations made by Prosvjeta for the provision of special educational programmes for Croatian Serb students. The Special Rapporteur further acknowledges the summer school for some 57 Serb children held in August 1996 in Peroj, organized by the Ministry of Education in cooperation with Prosvjeta.

2. Future prospects for the Serb community

131. An example of Croat and Serb communities living together in peace and cooperation in Croatia which offers hope for the future is to be found in the region of Gorski Kotar, in the western part of the country between Zagreb and Rijeka. Despite the fighting which broke out between Croats and Serbs a few kilometres away, the people in this region have followed a path of mutual respect since Croatia's declaration of independence. Serbs, who in some communities make up a majority of the local population, have proportional representation in bodies of local government and hold a reasonable proportion of local jobs. A local branch of Prosvjeta has been established which intends to work towards the promotion of Serbian cultural identity within the Croatian legal framework.

132. It is hoped that major initiatives taken during the past year, including the signing of the Basic Agreement on Eastern Slavonia, Baranja and Western Sirmium in December 1995 and the Agreement on the Normalization of Relations between the Republic of Croatia and the Federal Republic of Yugoslavia, signed in August 1996, will lead to increased observance of the rights of Croatia's Serb population. The latter agreement contains important commitments including, at article 8, the parties' guarantee to Serbs and Montenegrins in the Republic of Croatia, and to Croats in the Federal Republic of Yugoslavia, that they shall have "all the rights they are entitled to under international law".

D. The situation of other minorities in Croatia

133. Apart from Serbs, the 1991 census indicated that the largest minorities in Croatia, none numbering more than 50,000 persons, were Muslims (43,000), Hungarians (22,000), Slovenians (22,000), Italians (21,000) and Czechs (13,000).

134. Under the Constitutional Law on Human Rights, members of minority communities whose population is below 8 per cent of the national total are entitled to elect between them a total of five representatives to the House of

Representatives of the Croatian Parliament. The law further provides that such minorities are entitled to be represented in bodies of local self-government in proportion to their share of the local population.

135. Muslims, who are Croatia's second-largest minority group, appear to have been denied the full range of their rights despite the group's significant size. Of the five representatives of minority groups numbering less than 8 per cent of the population currently in the parliament, none is Muslim, leaving this group without political representation. Problems encountered by Muslims in acquiring Croatian citizenship have already been mentioned above, and the Special Rapporteur has also received reports of discrimination in employment. In the cultural realm, the Muslim community has worked to preserve its identity, including through the activities of its mosque in Zagreb and the cultural society Preporod.

136. Italians constitute some 10 per cent of the local population of about 200,000 persons on the Istrian peninsula in Croatia's far west. The Italian minority has formed effective political parties and exerts substantial influence locally in Istria. However, there has been some tension with the Government in Zagreb over the extent of self-rule in the region. In February 1995, the Constitutional Court repealed 18 of 36 provisions of the Statute of the County of Istria, some dealing with the use of languages, finding the provisions to be outside the scope of local authority. Disagreements have also occurred on the question of control over local tax revenues.

137. The Italian minority has put together programmes for the preservation of their cultural identity, particularly in education. The local media also effectively address issues of interest to the Italian minority. According to the Government, a bilateral agreement with Italy concerning minority protection is due to be ratified shortly.

138. In the cultural realm, Croatian law makes numerous provisions for promoting the identity of national minorities. According to the Government, schools attended by minority pupils have their own special curricula in addition to standard ones, designed to teach history, geography, art and music to students in their native language. Special curricula are now available for members of the Italian, Hungarian, Czech, Slovak, Ruthenian and Ukrainian minorities. Decisions are made locally by minority communities themselves, in consultation with the local educational authority, as to the precise curriculum to be used in different schools. Most textbooks in use in Croatia are translated from Croatian into minority languages for use in these schools.

139. The Government has advised the Special Rapporteur that in 1995 the Romany Union of Croatia printed a collection of studies dealing with the subject of Romany education in Croatia, the first-ever printed literature on this topic in the country. In August 1995 a "Summer School for the Romany Children of Croatia" was organized with the assistance of the Ministry of Education and Sport and the Union of Romany Associations in Croatia, which brought together some 50 primary school children.

140. Numerous publications and radio programmes are available to minority communities in their own languages, and the State television occasionally broadcasts programmes about or for minority communities. Cultural societies throughout the country produce events, including theatrical pieces and concerts, in different languages, and libraries and museums exist to preserve and promote cultural heritage.

E. Conclusions and recommendations

141. The terrible consequences of the war in Croatia place an exceptional responsibility on the Government to take strong measures to promote the rights of Croatian Serbs. Unfortunately, despite some positive measures, the Government has also taken several significant steps backwards. Croatia should act immediately to reinstate constitutional provisions it has suspended, not least because many of the law's beneficiaries are persons eligible for Croatian citizenship who are currently refugees in the neighbouring Federal Republic of Yugoslavia.

142. Although the Government states that it has taken strong measures to provide adequate security for Serbs remaining in the former Sectors, evidence of continuing abuses and lawlessness indicates that these measures are insufficient. Reports of lack of access to citizenship documents, discrimination in employment and other problems lead to the conclusion that Serbs have, indeed, suffered an erosion of their legal position with the passage of the 1991 Croatian Constitution.

143. The civil war in Croatia caused indescribable suffering to Croatian citizens, Serbs and Croats alike. It is essential that the two peoples seize the opportunity provided by peace to re-evaluate their relationship. Serbs must accept that redress for their grievances can be sought through the legal structures of the Croatian State, and the Croatian Government must ensure that these structures function in an impartial and effective manner. The Government should, furthermore, take the opportunity provided by the recent agreement on normalization of relations with the Federal Republic of Yugoslavia to use the agreement, as it had previously indicated to the Special Rapporteur, that it would, to facilitate the return to Croatia of Serbs with valid claims to Croatian citizenship.

144. The rights of ethnic and national communities and minorities in Croatia are guaranteed by various provisions of domestic and international law. Some concerns have been raised as to the implementation of these laws. The Special Rapporteur has therefore been encouraged by initiatives undertaken by the authorities to promote a special school curriculum for Serbs in Croatia, in cooperation with the cultural association Prosvjeta.

145. In order to reinforce peace between national groups, confidence-building measures should be undertaken with an emphasis on community life. The Special Rapporteur applauds the implementation of various development and socio-economic projects aimed at breaking down barriers between Croats and other groups in Croatia. She emphasizes the responsibility of group leaders to promote harmonious inter-ethnic relations.

IV. GENERAL CONCLUSIONS AND RECOMMENDATIONS

146. The protection of minority rights is only one of the many human rights obligations of both the Federal Republic of Yugoslavia and the Republic of Croatia. The question of minority rights, however, is especially pertinent in the context of the former Yugoslavia. Troubled relations between national groups and the Governments responsible for their welfare were a cause of the war which devastated the region from 1991 to 1995. It is clear that the maintenance of peace depends to a large extent on the progress made by countries in the region in this critical area. Failure to resolve the problems faced by minority populations, notably the minority populations in the entities of Bosnia and Herzegovina, carries the threat of renewed conflict.

147. The Agreement on the Normalization of Relations between the Republic of Croatia and the Federal Republic of Yugoslavia, signed at Belgrade on 23 August 1996, does not assign obligations to either of the parties in the field of minority rights which they did not already have. Nevertheless, the agreement is an important political initiative which can lead to an improvement in the situation of minority populations in both countries. The Governments should be encouraged to continue to move forward on the basis of the steps which have already been taken.

148. International organizations can make a valuable contribution to countries' own initiatives to promote respect for human rights on their territories. The Republic of Croatia has continuously engaged in constructive cooperation with international entities, including the Special Rapporteur and the Office of the High Commissioner for Human Rights. Croatia's recent acceptance of the presence of an OSCE mission which will pay special attention to the question of minority rights is another demonstration of this cooperation.

149. The Special Rapporteur was gratified by the Federal Republic of Yugoslavia's acceptance of the establishment of an office of the High Commissioner for Human Rights in Belgrade in February 1996. The office currently is staffed by three persons. The Special Rapporteur believes that willingness by the FRY Government to consider permitting a larger international presence on its territory for both monitoring and advisory activities would be a positive step towards easing existing tensions. In particular, she believes that international monitors in Kosovo and the Sandzak region could have a beneficial impact. The Special Rapporteur also urges the FRY Government to consider establishing an ombudsman-type institution at the national level to assist in the resolution of human rights problems, including problems relating to minority rights.

150. The values promoted in education are of fundamental importance in advancing human rights in societies generally. For this reason the Special Rapporteur wishes to reiterate her call for the inclusion of human rights courses in curricula throughout the territory of the former Yugoslavia.

151. Local non-governmental organizations are among the most important agents of social change. NGOs throughout the former Yugoslavia, including in Croatia

and the Federal Republic of Yugoslavia, have played an extremely important role in illuminating problems and in bringing peoples together. Their efforts must receive strong support from the international community. The Special Rapporteur is aware of numerous resources which can be helpful in assisting non-governmental organizations, including the technical cooperation expertise of the Office of the High Commissioner for Human Rights and the programme for confidence-building measures developed by the Council of Europe. It is hoped that these resources can be applied to promote both minority rights and human rights generally of all people in the region.

152. As noted at the beginning of this special report, the question of minority rights is of vital importance throughout the territory of the Special Rapporteur's mandate. Just as the situations of minorities in the Federal Republic of Yugoslavia and Croatia are interrelated, so too are those of other countries in the region. For example, although consideration has been given to the situation of ethnic Albanians in the Federal Republic of Yugoslavia, the Special Rapporteur is aware of the relevance to this question of the situation of ethnic Albanians in the neighbouring former Yugoslav Republic of Macedonia. Indeed, one of her inspirations in preparing the present report was the recommendation to consider this question made to her by the President of the former Yugoslav Republic of Macedonia. The Special Rapporteur intends to continue her consideration of the situation of minorities throughout the territory of her mandate, and she hopes that the present report is a useful preliminary contribution to the illumination of this most important issue.

Notes

1/ The key provision of the ICCPR relating to minority rights is article 27: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language."

2/ The address of MRG is 379/381 Brixton Road, London SW9 7DE, United Kingdom, telephone 44(0) 171-978-9498.

3/ In the 1960s, a decision was taken to recognize Muslims as a nation, on an equal footing with the country's other "constituent nations".

4/ All republican citizens by law became, simultaneously, citizens of the SFRY (art. 249).

5/ See Dimitrijevic Vojin, "Nationalities and Minorities in the Yugoslav Federation", in The Protection of Minorities and Human Rights, Yoram Dinstein and Mala Tabory (eds.), Martinus Nijhoff Publishers (Dordrecht, 1992), pp. 419-433.

6/ The figure is an official estimate, since many Albanians declined to participate in the census.

7/ These include the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Final Act of the Conference on Security and Cooperation in Europe (Helsinki Conference Final Act), the European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols, and the International Convention on the Elimination of All Forms of Racial Discrimination.

8/ Article 21 of the Constitution proclaimed two Serb-majority districts centred around the towns of Glina and Knin close to the border with Bosnia and Herzegovina as having special political status; they were soon to become parts of Sectors North and South in the breakaway "RSK".

9/ See, for example, S/PRST/1996/29 (3 July 1996).

10/ European Commission for Democracy through Law (Venice Commission), "Report on the Implementation of the Constitutional Law on Human Rights and Freedoms and on the Rights of Ethnic Communities and Minorities in the Republic of Croatia," (Strasbourg, 24 May 1996).

11/ Ibid. para. 9.

12/ See, e.g., E/CN.4/1994/110 (21 February 1994).

13/ See A/50/727-S/1995/933, annex (7 November 1995); E/CN.4/1996/63 (14 March 1996).

14/ See, for example, S/1996/456 (21 June 1996); S/1996/109 (14 February 1996).

15/ See A/49/641-S/1994/1252 (4 November 1994).

16/ Ibid. See also, for example, E/CN.4/1994/110 (21 February 1994); E/CN.4/1995/57 (16 January 1995).

17/ See, for example, E/CN.4/1995/54 and Corr. 1 ("Special report on the media") (13 December 1994).

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